



Rule of Law Program

INVESTIGATIVE SKILLS TRAINING

Developing a Training Program for Felony Case Building and The “Team” Approach

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1. **Introduction**-The following is a description of the development and planned presentation of the ROLP *Investigative Skills* training program which is scheduled to be presented to experienced public prosecutors in June, 2012 in Amman, Jordan. The program will consist of six segments presented over three days and is designed to be a “train the trainers” activity. Accordingly, the anticipated audience will be kept small with about a dozen participants.

ROLP intends that this description of the *Investigative Skills* training program and the materials generated for the training sessions will be considered by the Judicial Council and Judicial Institute of Jordan as a resource and a useful model for similar future trainings of prosecutors and judicial police throughout the Kingdom. The experienced prosecutor-judges who attend the June sessions should be in a position to conduct similar trainings in the future and to impart the themes and concepts to their partners and colleagues involved in investigations of serious crime.

The ROLP Year 4 Work Plan provides the initial direction for the training of prosecutors in Jordan.¹ In addition, the *Prosecution Consultant’s Report* submitted to ROLP in March of 2012 clearly references the need and desire of Jordan’s public prosecutors to receive training in the area of *building investigations* and *strengthening investigation skills*.²

¹ ROLP Work Plan Year 4 – Activity 1.5 – Support Specialization of Judges and Prosecutors through Technical Assistance and Training; Activity 1.6 – Support Increased Capacity of the Courts and Prosecutors to Assume Cases from Special (State Security) Courts; Activity 1.7 – Continue to Support the Judicial Institute of Jordan; and Activity 3.2 – Improve the Performance of the Public Prosecutor.

² *Enhancing the Public Prosecution in Jordan: Supporting a Force for Good in Difficult Times* – “The rule of law training plan should focus on...(1) building investigations...” (p.2). “Almost all the public prosecutors emphasized the need to strengthen investigation skills.” (p.11).

Finally, during our planning for this training, it became apparent that there are common elements that are relevant to both prosecutors and judicial police. Because of this, it is hoped that prosecutors, through the appropriate channels, will take the initiative to engage with appropriate Jordanian law enforcement authorities to make joint police-prosecution trainings a reality.

2. **Sentiment for improvement** - In addition to the ROLP work plan which provides the immediate mandate for training, it was clear from discussions during workshops with prosecutors that they have given considerable thought given to forging a new and enhanced relationship between themselves and judicial police. High quality criminal investigation of serious crime requires a strong, clear, and well-developed understanding between the police and public prosecutors in many aspects of their operations and responsibilities. Several key themes are apparent:

- Greater partnership, teamwork, and cooperation between the prosecution service and the police.
- Improving the level of investigative capacities
- Clarifying the roles and responsibilities for police and prosecutors
- Fair and legal processes and procedures with full respect for human rights.
- *A duty of prosecutors is to constantly seek ways to improve not only themselves individually, but to improve the institutions and systems under which they labor to achieve the ends of justice.*

3. **Objectives** – ROLP has developed a training program for the public prosecutors in Jordan with the goals of enhancing investigative skills as well as building a closer relationship between police and prosecutors. The June 2012 training format is designed specifically as a “training the trainers” activity targeted to a small group of experienced prosecutors who can be called upon to deliver similar training in the future to police and prosecutors.

- **Objective #1 - Enhance investigative skills**

The benchmarks of successful criminal investigations are that they be professional and of the highest quality - that is, thorough and fair. To that end, the investigators, (be they police or prosecutors), need the following:

- a. To receive the best information available as soon as possible. The investigator must be made aware of the factual and legal situation of any reported crime as soon as possible and the potential physical and testimonial evidence must be secured as soon as possible.
- b. To be able to develop investigative strategies and to organize and prioritize the necessary investigative tasks
 - With an understanding of what is reasonable and what is most likely to produce the best and most useful information in a reasonably quick period of time.

- This often requires a certain degree of resourcefulness and creative thinking, not to mention persistence.
- c. To understand the abilities and limits of the available resources and to proceed as effectively as conditions permit.
- d. To be aware of the availability, capacities, and the limitations of available expert and forensic services.

- **Objective #2 – Teamwork**

Successful criminal investigations, particularly of serious cases, require a cooperative effort between police, prosecutors, and other specialized agencies as needed. With this in mind, the criminal investigative “team” requires the investigators

- a. To delegate investigative responsibilities to others as well as to accept delegated tasks and responsibilities
- b. To engage in regular *open-minded* communication and discussion with colleagues and partners (police and prosecutors) in developing investigative strategies.
- c. To understand and respect the roles and responsibilities of the partners and colleagues in the investigation team.

4. **Implementation of Training** – To meet the above objectives, ROLP took care to incorporate the following concepts into the development and implementation of the training:

- Understanding that the best way to learn something is to do it - the next best way is to simulate it.
- Make the training as *useful* and as *practical* as possible for the participants
- “High- impact” training demands that the participants be actively engaged and participate throughout the sessions.
- Appreciate that prosecutors are busy and have real world responsibilities. It is necessary to make the most of limited time. Fashion the training program for a minimum of preparation by the participants and design the output so that the participants can take away from the sessions concepts that can be put to use immediately.
- The sessions emphasize the need for and encourage the teamwork approach between police and prosecutors in conducting investigations.
- To create in a limited time and in a controlled environment,³ situations requiring the thinking, consideration, and planning processes that would face the investigators in a real world setting. To this end, the participants will -
 - i. Be presented with fact situations requiring immediate investigative action;
 - ii. Need to quickly decide what investigative steps to take and develop an investigative strategy; and
 - iii. Need to modify the investigative strategy and tactics as new facts emerge.

³ Ideally, in the future with *joint* police and prosecutor trainings.

5. **Methodology and Conduct of Presentations** – With the implementation concepts in mind, we developed a “training the trainers” program that put a premium on participant involvement and problem solving, particularly during the case study sessions, which is the core of the training.

General principles of good investigation and proof of facts

Initial Session (1): The first session involves a more traditional lecture and seminar-type of discussion (with power point) to review basic principles, the building blocks, of investigations and adjudication. The purpose of the session was to establish a common base-line of understanding terminology. Key areas of discussion involves the following:

- Need to establish the “investigative team” for a particular case;
- Initial investigative efforts (“the evidence collection phase”) after the report of a crime and the respective roles of the police and prosecutor;⁴
- Basic concepts of evidence and proof of facts – physical and testimonial – and a discussion of evidentiary *relevance*;
 - There is an emphasis on the basic proposition that all criminal investigations (and adjudications) aim to answer two questions:
 - (1) Did a crime occur?; and
 - (2) if so, who did it? The investigative steps should be directed to answer these two basic questions.

This session emphasizes the theme that principles of investigations and proof of a case are universal, applicable almost anywhere in the world notwithstanding the legal environment. Good investigation is good investigation no matter where the investigation takes place or what crime is being investigated is. Certain technicalities may differ, but the ultimate goal of the investigation (and later, the trial) is to recreate an event as fairly and as accurately as possible and then to deliver the facts to a tribunal in as persuasive way as possible. This can only be done with police and prosecutors working together as a team.

From Fact Scenarios to Developing Investigative Plans

Case Study Sessions (2-5): These sessions all involve a progression of fact scenarios with the participants responding to the information provided. The general flow of the sessions is as follows:

1. In advance of each session, the participants are presented with a written introductory set of facts (similar to that which would ordinarily come to the attention of the police by way of a citizen “call for service”).

⁴ For this portion of the training, a local criminal justice professional well-versed in criminal investigations will discuss basic principles of sound crime scene management and in developing an investigative strategy.

2. Based upon this set of facts, the participants at the start of the session are asked to immediately develop a plan of action on the spot. A participant (or a small team of participants) would then present the action plan or steps to be taken. The facilitator then asks for clarifications or justifications and also invites the others present for their thoughts and ideas. This would lead to a discussion. All the participants become involved in the critique and discussion.
3. After discussing the initial action plan, the participants are given a follow-up set of facts which the investigation has developed. Based upon these additional facts, ideas are exchanged for the appropriate next steps. Essentially, the participants then repeat the exercise of offering suggestions, exchanging ideas, justifications, and critiques.
4. After a thorough discussion of the investigative steps, another layer of facts is presented to the group and the process continues. Each case study keeps developing and building the investigation based upon the facts as they emerge.
5. The group will finally reach a point where there are no further investigative steps to take and the investigation will be deemed closed.

Things to constantly keep in mind during the case discussion and in developing the investigative strategy:

1. Prioritize the investigative steps.
 - Is a particular investigative step necessary at that time. Why now? Why not later? Would another step be more fruitful?
2. Is the investigative step reasonable and realistic considering the available resources?
3. Interviews – Who will conduct what interview and when? Advance planning of questions.
4. Suspect – interview vs. interrogation, keeping in mind the legal requirements.
5. Key decision points
 - Timing certain investigative steps. (Searches, key interviews, follow-up interviews, arrest, etc.)
 - When a witness becomes a suspect? Key point to bear in mind. Who makes the decision? What threshold of evidence needs to be reached?
 - Timing the arrest of a suspect.

Specific Investigative Steps – Line-ups, Interviews, and Interrogations

Final Session – Follow-up (6): This session is dedicated to a discussion of the following investigative steps:

1. Witness interviews generally
2. Witness interviews for identification - Line-ups (photographic and live)
 - Legal basis and responsibility to conduct
 - Voice recognition-line ups
3. Suspect interrogations
 - Practical considerations and when to declare a witness a suspect.
 - Timing
 - Voluntariness and legal considerations
4. Using technology – electronic recordings
 - Need for legal basis
5. Forensic Capacities

Conclusion - The *Investigative Skills* training program described above is a flexible and high impact approach that can be readily adapted to the specific needs of any police and/or prosecution investigative unit or team. It is readily adaptable to involve police investigators as participants. Its advantages are that it can bring police and prosecutors together in a controlled situation where their concurrent investigative duties overlap. By presenting the contrived or actual factual scenarios⁵, the participants, being prosecutors, naturally are disposed to propose, defend, discuss, critique, and argue about the “proper” investigative steps to take. Lively exchanges of ideas result from this. Invariably, legal and practical issues will emerge that need be discussed and resolved. In addition, it does not take long for the participants to realize that they can learn much from their colleagues. This fosters the cooperative spirit and “team” approach that underlies all well handled and successful criminal investigations. The lessons learned from the session are readily put into practice. This inevitably leads to better investigations and strengthens the relationship between the prosecutors and police.

⁵ The factual scenarios can be hypothetical, based on real cases, or mixed. During the ROLP JUNE 2012 trainings described herein, actual cases were utilized (with appropriate localized name and location changes).